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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,960	09/25/2001	Thomas Burkhardt	020431.0947	1567
53184 7590 08/24/2006 i2 TECHNOLOGIES US, INC. ONE i2 PLACE, 11701 LUNA ROAD DALLAS, TX 75234			EXAMINER DESHPANDE, KALYAN K	
			ART UNIT 3623	PAPER NUMBER
DATE MAILED: 08/24/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/963,960		BURKHARDT ET AL.	
	Examiner		Art Unit	
	Kalyan K. Deshpande		3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-16, 18-25 and 27-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-16, 18-25, and 27-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Introduction

1. The following is a non-final office action in response to the communications received on June 16, 2006. Claims 1-7, 9-16, 18-25, and 27-30 are now pending in this application. Claims 8, 17, and 26 have been previously cancelled.

Response to Amendment

2. Examiner acknowledges Applicant's amendments to claims 1-3, 6-7, 9-12, 14-16, 18-21, 23-25, and 27. Examiner acknowledges Applicants' previous cancellation of claims 8, 17, and 26. Examiner withdraws the 35 U.S.C. §101 rejections due to amendment to the claims. Examiner maintains the 35 U.S.C. §103 rejections and asserts new 35 U.S.C. §103 rejections necessitated by amendment. Examiner also requests that Applicants specifically point to sections of the Specification that provide support for the new matters asserted.

Response to Arguments

3. Applicant's arguments filed June 16, 2006 have been fully considered but are not found persuasive or are moot in grounds of new rejection necessitated by amendment. Applicant argues i.) Examiner improperly applied a "technological arts" rejection to the present invention, ii.) Jameson fails to teach "a computer-implemented method for solving a supply chain planning problem" and specifically fails to teach "decompositioning the supply chain planning problem into a plurality of independent sub-problems", iii.) Jameson fails to teach "providing a plurality of distributed partitions in a database" and "associated with a respective independent sub-problem of said

Art Unit: 3623

supply chain planning problem”, iv.) Jameson fails to teach “operating at least one processor in said database, each of said at least one processor associated with a respective partition of said plurality of distributed partitions”, v.) Jameson fails to teach “forming a plurality of distributed sub-problem partitions, each of said distributed sub-problem partitions including a plurality of related items and associated with a respective independent sub-problem of said supply chain problem”, vi.) Jameson fails to teach “loading data into a plurality of distributed database partitions, said data associated with said plurality of related items, and each of said distributed database partitions associated with a respective one of each of said distributed sub-problem partitions”, vii.) Jameson fails to teach “solving each of said plurality of said independent sub-problems by separate processes operating in parallel in said database”, viii.) Examiner inappropriately used Official Notice, ix.) Examiner used impermissible hindsight, x.) the knowledge that “resource allocation is part of supply chain management” is not within ordinary skill in the art, xi.) James or Fierro fail to teach “the step of equally sizing said distributed sub-problem partitions”, and xii.) Examiner failed to provide motivation for combining Jameson and Fierro.

Applicant’s argument Examiner improperly applied a “technological arts” rejection is moot because Examiner has withdrawn this rejection due to the amendments to claim 1. However, it should be noted that Examiner did not apply a technological arts test but rather implored the useful, concrete, and tangible test of 35 U.S.C. §101.

In response to Applicant’s argument Jameson fails to teach “a computer-implemented method for solving a supply chain planning problem” and specifically fails

Art Unit: 3623

to teach “decompositioning the supply chain planning problem into a plurality of independent sub-problems”, Examiner respectfully disagrees. First, Jameson teaches a resource allocation system and method (see column 5 lines 13-34). Additionally, Jameson teaches handling forecasted demand uncertainty as a constraint in the algorithm to determine optimal resource allocations (see column 5 lines 13-34 and column 19 lines 1-45). The present invention describes the supply chain problem as demand forecasting problems, service level requirement problems, and replenishment planning problems (see Specification page 2). Thus, Jameson specifically handles a supply chain problem (by handling forecasted demand uncertainty) as described by the Applicants. Furthermore, Applicants have failed to persuade examiner on exactly how a resource allocation problem is not a supply chain problem. The mere allegation that resource allocation has nothing to do with supply chain management is not persuasive. Second, Jameson does teach “decompositioning the supply chain planning problem into a plurality of independent sub-problems” (see column 7 lines 45-54; where the allocation problem is divided in to simpler sub-problems. Resource allocation is a part of supply chain management.). Applicants’ state that Jameson’s decompositioning of the supply chain problem is “for coping with the inherent NP-Hardness of stochastic programming and for defining spaces for line searches” but fail to specifically distinguish how the present invention is different. The mere allegation that Jameson fails to teach this limitation is a mere allegation of patentability fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably

distinguishes them from the references. Furthermore, if Applicants are suggesting that the present application's decomposition of a supply chain problem is different than that of Jameson's decomposition, the Applicants would be relying on features not recited in the claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to Applicant's argument Jameson fails to teach "providing a plurality of distributed partitions in a database" and "associated with a respective independent sub-problem of said supply chain planning problem", Examiner respectfully disagrees. Jameson does teach "providing a plurality of distributed partitions in a database, each partition of said plurality of distributed partitions associated with a respective independent sub-problem of said supply chain problem (see column 7 lines 45-54 and column 8 lines 19-21; where the system accounts for larger sub-problems. Sub-problem partitions are defined as larger sub-problems per the specification. See specification p. 9 line 16. Further, clusters are combined to create larger clusters or larger sub-problems. The sub-problems consist of scenarios, where a scenario is a set of related events. Each scenario is an independent sub-problem.). Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In response to Applicant's argument Jameson fails to teach "operating at least one processor in said database, each of said at least one processor associated with a

Art Unit: 3623

respective partition of said plurality of distributed partitions”, Examiner respectfully disagrees. Jameson does teach “operating at least one processor in said database, each of said at least one processor associated with a respective partition of said plurality of distributed partitions” (see column 5 lines 10-35 and column 24 lines 61-67; where multiple processors can be used to increase the system efficiency. Furthermore, each processor can be used in parallel for each instance of ZCluster and each processor can handle a branch of the scenario tree.). Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In response to Applicant's argument Jameson fails to teach “forming a plurality of distributed sub-problem partitions, each of said distributed sub-problem partitions including a plurality of related items and associated with a respective independent sub-problem of said supply chain problem”, Examiner respectfully disagrees. Jameson does teach “forming a plurality of distributed sub-problem partitions, each of said sub-problem partitions including a plurality of related items and associated with a respective independent sub-problem of said supply chain planning problem” (see column 7 lines 45-54 and column 8 lines 19-21; where the system accounts for larger sub-problems. Sub-problem partitions are defined as larger sub-problems per the specification. See specification p. 9 line 16. Further, clusters are combined to create larger clusters or larger sub-problems. The sub-problems consist of scenarios, where a scenario is a set of related events. Each scenario is an independent sub-problem.).

In response to Applicant's argument Jameson fails to teach "loading data into a plurality of distributed database partitions, said data associated with said plurality of related items, and each of said distributed database partitions associated with a respective one of each of said distributed sub-problem partitions", Examiner respectfully disagrees. Jameson does teach "loading data into a plurality of distributed database partitions, said data associated with said plurality of related items, and each of said distributed database partitions associated with a respective one of each of said distributed sub-problem partitions" (see column 5 lines 35-40, column 7 line 25, column 11 lines 3-15, column 18 lines 49-56 and column 29 lines 35-57; where separate matrices contain variables for each scenario. Each matrix contains rows and columns to hold data elements. The matrices, also having a separate memory portion, are a database partitions.).

In response to Applicant's argument Jameson fails to teach "solving each of said plurality of said independent sub-problems by separate processes operating in parallel in said database", Examiner respectfully disagrees. Jameson does teach "solving each of said plurality of said independent sub-problems by separate processes operating in parallel in said database" (see column 5 lines 10-35, column 8 lines 8-25, and column 24 lines 61-67; where the sub-problems are solved to determine the optimal allocation point. Each sub-problem is solved independently and can be solved by multiple processors operating in parallel. The matrices are stored on individual machines thus allowing the matrices to be stored across several computers. A distributed database is defined as a database that be distributed to several computers.).

In response to Applicant's argument Examiner inappropriately used Official Notice, Examiner respectfully disagrees. Examiner has not taken any Official Notice with regard to claim 1 as purported by Applicants. The rejection of "solving a supply chain problem" that Applicant has incorrectly argued as a rejection based on Official Notice is discussed above. Examiner has not stated or asserted that the recited limitations are "well known in the art" and is unable to find any such language in the grounds of rejection provided in the Non-Final or Final Rejections. The applied reference has been interpreted and applied assuming basic knowledge of one of ordinary skill in the art. According to *in re Jacoby*, 135 USPQ 317 (CCPA 1962), the skilled artisan is presumed to know something more about the art than only what is disclosed in the applied references. In *In re Bode*, 193 USPQ 12 (CCPA 1977), every reference relies to some extent on knowledge of persons skilled in the art to complement that, which is disclosed therein. Specifically here, one of ordinary skill in the art would be presumed to know that a resource allocation problem is one such problem that supply chain management encompasses. Therefore, it is respectfully submitted that the Examiner has at least satisfied the burden of presenting a *prima facie* case of obviousness, since she has presented evidence of corresponding claim elements in the prior art expressly pointing to specific portions of the applied reference and has also expressly articulated the combinations, motivations for such combinations, and the scientific and logical reasoning of one of ordinary skill in the art at the time of the invention that fairly suggest the Appellant's claimed invention.

Art Unit: 3623

However, Examiner has taken official notice on the limitation “the step of forming said plurality of said clusters further comprises a step of assigning a CLUSTER_ID to each item of said plurality of related items” as per claims 5, 14, and 23. Examiner notes the following discussion of Official Notice taken from the MPEP:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 (“[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention.”). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate. If applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (“[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings” to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2). If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate. (MPEP § 2144.03(C))

First, Applicant has not “specifically point[ed] out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art.” Applicant's broad request for references to support Examiner's statements of Official Notice amounts to nothing more than an unsupported challenge. For these reasons, “the step of forming said plurality of said clusters further comprises a step of assigning a CLUSTER_ID to each item of said plurality of related items” is taken to be admitted prior art because Applicant's traversal

Art Unit: 3623

was inadequate. Second, Applicant's challenge is not timely. All statements of Official Notice made in the art rejection have been on record since issuance of the non-final rejection mailed on October 17, 2005. In the subsequent response filed on January 20, 2006, Applicant failed to adequately traverse Examiner's Official Notice. Consequently, the statements of Official Notice made in the art rejection have been established as admitted prior art due to Applicant's failure to adequately traverse the Examiner's assertions of Official Notice. Therefore, Applicant has not sufficiently switched back to the Examiner the burden of supplying references in support of her assertions of Official Notice.

In response to Applicant's argument Examiner used impermissible hindsight, Examiner respectfully disagrees. In response to applicant's argument in response to Examiner's assertion "a resource allocation problem is part of a supply chain problem" that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to Applicant's argument that there is no motivation to modify Jameson to incorporate "solving a supply chain problem", Examiner respectfully disagrees. Jameson teaches a resource allocation system and method (see column 5

Art Unit: 3623

lines 13-34). Additionally, Jameson teaches handling forecasted demand uncertainty as a constraint in the algorithm to determine optimal resource allocations (see column 5 lines 13-34 and column 19 lines 1-45). The present invention describes the supply chain problem as demand forecasting problems, service level requirement problems, and replenishment planning problems (see Specification page 2). Thus, Jameson specifically handles a supply chain problem (by handling forecasted demand uncertainty) as described by the Applicants. The teachings of Jameson enable one of ordinary skill in the art to ascertain the advantages optimizing allocation problems while reducing computational resources and time (see Jameson column 2 lines 42-56). It would have been obvious, to one of ordinary skill in the art, to modify Jameson to incorporate "solving a supply chain problem" because the teachings of Jameson enable one of ordinary skill in the art to achieve optimal resource allocations, which is a supply chain problem as noted above, while minimizing computer resources and time which is a goal of Jameson (see column 2 lines 42-56).

Applicant's argument James or Fierro fail to teach "the step of equally sizing said distributed sub-problem partitions" and Examiner failed to provide motivation for combining Jameson and Fierro are moot in grounds of the new rejection as necessitated by amendment.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3623

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7, 9-16, 18-25, and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jameson (U.S. Patent No. 6219649).

As per claim 1, Jameson teaches:

A method for solving a supply chain planning problem, comprising the steps of:

Decompositioning the supply chain planning problem into a plurality of independent sub-problems (see column 7 lines 45-54; where the allocation problem is divided in to simpler sub-problems. Resource allocation is a part of supply chain management.);

Providing a plurality of distributed partitions in a database, each partition of said plurality of distributed partitions associated with a respective independent sub-problem of said supply chain problem (see column 7 lines 45-54 and column 8 lines 19-21; where the system accounts for larger sub-problems. Sub-problem partitions are defined as larger sub-problems per the specification. See specification p. 9 line 16. Further, clusters are combined to create larger clusters or larger sub-problems. The sub-problems consist of scenarios, where a scenario is a set of related events. Each scenario is an independent sub-problem.);

Operating at least one processor in said database, each of said at least one processor associated with a respective partition of said plurality of distributed partitions (see column 5 lines 10-35 and column 24 lines

61-67; where multiple processors can be used to increase the system efficiency. Furthermore, each processor can be used in parallel for each instance of ZCluster and each processor can handle a branch of the scenario tree.);

Forming a plurality of distributed sub-problem partitions, each of said sub-problem partitions including a plurality of related items and associated with a respective independent sub-problem of said supply chain planning problem (see column 7 lines 45-54 and column 8 lines 19-21; where the system accounts for larger sub-problems. Sub-problem partitions are defined as larger sub-problems per the specification. See specification p. 9 line 16. Further, clusters are combined to create larger clusters or larger sub-problems. The sub-problems consist of scenarios, where a scenario is a set of related events. Each scenario is an independent sub-problem.);

Loading data into a plurality of distributed database partitions, said data associated with said plurality of related items, and each of said distributed database partitions associated with a respective one of each of said distributed sub-problem partitions (see column 5 lines 35-40, column 7 line 25, column 11 lines 3-15, column 18 lines 49-56 and column 29 lines 35-57; where separate matrices contain variables for each scenario. Each matrix contains rows and columns to hold data

Art Unit: 3623

elements. The matrices, also having a separate memory portion, are a database partitions.); and

Solving each of said plurality of said independent sub-problems by separate processes operating in parallel in said database (see column 8 lines 8-25; where the sub-problems are solved to determine the optimal allocation point. Each sub-problem is solved independently. The matrices are stored on individual machines thus allowing the matrices to be stored across several computers. A distributed database is defined as a database that be distributed to several computers.).

Jameson does not explicitly teach a method of "solving a supply chain method". Jameson, however, does teaches a resource allocation system and method (see column 5 lines 13-34). Additionally, Jameson teaches handling forecasted demand uncertainty as a constraint in the algorithm to determine optimal resource allocations (see column 5 lines 13-34 and column 19 lines 1-45). The present invention describes the supply chain problem as demand forecasting problems, service level requirement problems, and replenishment planning problems (see Specification page 2). Thus, Jameson specifically handles a supply chain problem (by handling forecasted demand uncertainty) as described by the Applicants. Furthermore, the intended use of a method must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

As per claim 2, Jameson discloses:

The method of Claim 1, further comprising the steps of:

Forming a plurality of clusters, each of said clusters including said plurality of related items (see column 8 lines 5-12; where optimal points are clustered and the clusters include the scenario, where scenarios are a set of related events); and

Forming said plurality of distributed sub-problem partitions from said plurality of clusters (see column 5 lines 35-40 and column 11 lines 3-15, column 7 lines 45-54, and column 8 lines 19-21; where the system accounts for larger sub-problems. Sub-problem partitions are defined as larger sub-problems per the specification. See specification p. 9 line 16. Further, clusters are combined to create larger clusters or larger sub-problems. The sub-problems consist of scenarios, where a scenario is a set of related events).

As per claim 3, Jameson teaches:

The method of claim 1, wherein the number of distributed sub-problems is equal to the number of database partitions (see column 7 lines 58-67, column 8 lines 1-8, and column 19 lines 1-46; where the optimal allocation problem is solved for each scenario. As in the example provided each scenario is loaded into a database partition (ZCluster Objects). Thus each sub-problem (scenario) is equal to the number of database partitions (ZCluster Objects).

As per claim 4, Jameson discloses:

The method of Claim 1, wherein said plurality of related items are related by one or more pre-define relationship rules (see column 10 lines 50-68, column 11 lines 1-29, and figures 6-8; where all of the elements of a scenario are processed under pre-defined rules).

As per claim 5, Jameson teaches the method of Claim 2, wherein the forming said plurality of said clusters further comprises a step of storing said clusters (see column 18 lines 49-61; where cluster arguments and function calls are stored to increase performance of future processing by calling stored results). Jameson fails to disclose the step of forming said plurality of said clusters further comprises a step of assigning a CLUSTER_ID to each item of said plurality of related items. It is old and well-known in data management to assign an identification value to items stored in a database. The step of storing a cluster automatically gives it a CLUSTER_ID in a database row. The advantage of assigning an identification value to items stored in a database is that the item and its respective row can be more efficiently found in the database by simply querying the database for the assigned identification value. It would have been obvious, at the time of the invention, for one of ordinary skill in data management to assign an identification value to the clusters stored in Jameson's system in order to more efficiently find the clusters and their stored results.

Examiner further notes the following discussion of Official Notice taken from the MPEP:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 ("[I]n the absence of any

Art Unit: 3623

demand by appellant for the examiner to produce authority for his statement, we will not consider this contention.”). A general allegation that the claims define a patentable invention without any reference to the examiner’s assertion of official notice would be inadequate. If applicant adequately traverses the examiner’s assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (“[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings” to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2). If applicant does not traverse the examiner’s assertion of official notice or applicant’s traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner’s assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate. (MPEP § 2144.03(C))

Applicant has not “specifically point[ed] out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art.” Applicant’s broad request for references to support Examiner’s statements of Official Notice amounts to nothing more than an unsupported challenge. For these reasons, assigning an identification value to a record is taken to be admitted prior art because Applicant’s traversal was inadequate.

As per claim 6, Jameson teaches the step of forming a plurality of distributed sub-problem partitions from said plurality of clusters (see column 7 lines 45-58 and column 24 lines 61-67; where clustering is used to divide resource allocation problems into simpler sub-problems. Using simpler sub-problems enhances the system to run faster and simpler. Furthermore, multiple processors can be used to solve each of the sub-problems.). Although Jameson teaches creating sub-problems in order to facilitate computational time and complexity, Jameson fails to explicitly teach creating sub-

Art Unit: 3623

problem objects of the same size. It is old and well-known in the art to equally size objects for processing. The advantage of creating objects of the same size is that it increasing the computational speed and minimizing the computational complexity. IT would have been obvious, at the time of the invention, to one of ordinary skill in the art to take the teachings of Jameson to divide an allocation problem into sub-problems and modify Jameson to include the feature of equally sizing the sub-problem partitions in order to increase the system speed and minimizing the computational complexity, which is a goal of Jameson (see column 7 lines 45-57 and column 24 lines 61-67).

As per claim 7, Jameson discloses:

The method of Claim 1, wherein the step of solving each of said plurality of said distributed sub-problems further comprises a step of solving said plurality of independent sub-problems in parallel (see column 24 lines 61-67; where the use of multiple processors is desirably for the parallel execution of multiple instances of clusters).

As per claim 9, Jameson teaches:

A computer implemented method for solving a supply chain planning problem, comprising the steps of:

Decompositioning the supply chain planning problem into a plurality of independent sub-problems (see column 7 lines 45-54; where the allocation problem is divided in to simpler sub-problems. Resource allocation is a part of supply chain management.);

Providing a plurality of distributed partitions in a database, each partition of said plurality of distributed partitions associated with a respective independent sub-problem of said supply chain problem (see column 7 lines 45-54 and column 8 lines 19-21; where the system accounts for larger sub-problems. Sub-problem partitions are defined as larger sub-problems per the specification. See specification p. 9 line 16. Further, clusters are combined to create larger clusters or larger sub-problems. The sub-problems consist of scenarios, where a scenario is a set of related events. Each scenario is an independent sub-problem.);

Operating at least one processor in said database, each of said at least one processor associated with a respective partition of said plurality of distributed partitions (see column 5 lines 10-35 and column 24 lines 61-67; where multiple processors can be used to increase the system efficiency. Furthermore, each processor can be used in parallel for each instance of ZCluster and each processor can handle a branch of the scenario tree.);

Storing data associated with at least one new item in a temporary database location (see column 5 lines 35-40, column 7 line 25, column 11 lines 3-15, column 18 lines 49-56 and column 29 lines 35-57; where separate matrices contain variables for each scenario. Each matrix contains rows and columns to hold data elements. The matrices, also having a separate memory portion, are a database partitions.);

Forming at least one cluster, said at least one cluster including said data associated with said at least one item (see column 8 lines 5-12; where optimal points are clustered and the clusters include the scenario, where scenarios are a set of related events);

Merging said at least one cluster with at least one cluster associated with at least one sub-problem partition (see column 7 lines 45-54 and column 8 lines 19-21; where the system accounts for larger sub-problems. Sub-problem partitions are defined as larger sub-problems per the specification. See specification p. 9 line 16. Further, clusters are combined to create larger clusters or larger sub-problems. The sub-problems consist of scenarios, where a scenario is a set of related events);

Loading said data into at least one database partition, said at least one database partition associated with said at least one sub-problem partition (see column 5 lines 35-40, column 7 line 25, column 11 lines 3-15, column 18 lines 49-56 and column 29 lines 35-57; where separate matrices contain variables for each scenario. Each matrix contains rows and columns to hold data elements. The matrices, also having a separate memory portion, are a database partitions.); and

Solving said at least one independent sub-problem by separate processes operating in parallel in said database (see column 8 lines 8-25; where the sub-problems are solved to determine the optimal

Art Unit: 3623

allocation point. Each sub-problem is solved independently. The matrices are stored on individual machines thus allowing the matrices to be stored across several computers. A distributed database is defined as a database that be distributed to several computers.).

Claims 10-16, 18-25, and 27 recite a "computer-implemented system for solving a supply chain planning problem" and "software for solving a supply chain planning problem" taught by Jameson (see column 1 lines 13-14 and column 5 lines 35-40).

Claims 10-16, 18-25, and 27 further recite limitations already addressed by the rejections of claims 1-7 and 9; therefore the same rejection applies to this claim.

6. Claims 28-30 rejected under 35 U.S.C. 103(a) as being unpatentable over Jameson (U.S. Patent No. 6219649) in view of Chopra et al. (Chopra, Sunil; Meindl, Peter; Supply Chain Management: Strategy, Planning, and Operation, Prentice Hall, October 2000).

As per claim 28, Jameson teaches "said supply chain planning problems comprise problems selected from the group consisting of demand forecasting" (see column 5 lines 13-34 and column 19 lines 1-45; where uncertain constraints are handled and a resource allocation problem in terms of an forecasted demand uncertainty is provided.). Jameson fails to explicitly teach supply chain problems of "service level planning" and "replenishment planning". Chopra, in an analogous art, teaches solving supply chain problems for "service level planning" and "replenishment planning" (see pp. 179-220; where methods for cycle service level planning and replenishment policies is discussed). Chopra further teaches supply chain problems of

demand forecasting (see pp. 67-100; where planning for demand using demand certainty and demand uncertainty is done). The advantage of solving supply chain problems of demand forecasting, service level planning, and replenishment planning is that it facilitates the availability of product in light of the supply and demand variability. It would have been obvious, at the time of the invention, to combine the teachings supply chain management with regard to “supply chain problems consisting of demand forecasting, service level planning, and replenishment planning” of Chopra to Jameson in order to facilitate the availability of product in light of the supply and demand variability, which is a goal of Chopra (see p. 179-180).

Claims 29-30 recite a “computer-implemented system for solving a supply chain planning problem” and “software for solving a supply chain planning problem” taught by Jameson (see column 1 lines 13-14 and column 5 lines 35-40). Claims 29-30 further recite limitations already addressed by the rejection of claim 28; therefore the same rejection applies to these claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following are pertinent to the current invention, though not relied upon:

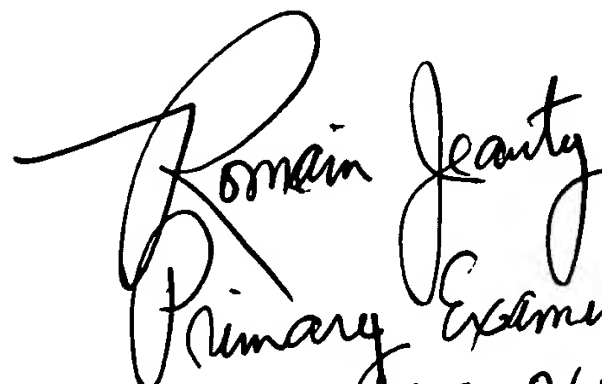
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kalyan K. Deshpande whose telephone number is (571)272-5880. The examiner can normally be reached on M-F 8am-5pm.

Art Unit: 3623

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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kkd


Romain Leauty
Primary Examiner
Art Unit 3623